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SALT RIVER AGENCY

A. G. Contract No.: KR95-1302-TRN
ADOT No. JPA 95-92
Project: SR 87/Mesa-Payson Hwy.
TRACS No.: 087 MA 177 H 2729 01C
Section: McDowell Rd.-Shea Blvd.

INTERGOVERNMENTAL AGREEMENT
AMONG
THE STATE OF ARIZONA,
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY
AND
LAND OWNERS AND RELOCATEES OF ALLOTMENT NO. SR 772

THIS AGREEMENT is entered into 2 JULY, 1996,
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the
STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the
"State"), the SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, acting by and through its
COMMUNITY COUNCIL (the SRPMIC"), and the LANDOWNERS AND RELOCATEES OF
ALLOTMENT NO. SR 772.

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, copy of which is attached hereto, and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The SRPMIC is empowered to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

3. The Landowners and Relocates of Allotment No. SR 772 have entered into this agreement.

4. The State and the SRPMIC have previously entered into an Intergovernmental Agreement, JPA 92-130, incorporated here by reference, regarding the construction of improvements to State Route 87 (SR 87). That agreement provided that noise mitigation relating to the "Miles" property would be the subject of a separate agreement between the parties thereto and the allotted landowners of the Miles property. That resolution is the purpose of this agreement.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. <u>20811</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>07/02/96</u>
<u>Jane Lee Hull</u> Secretary of State
By <u>Vicky Greenwald</u>

II. SCOPE OF WORK

1. The State will:

a. Be responsible for the cost of construction of three single family houses in Allotment No. 772 in the Salt River Pima-Maricopa Indian Community for the families of Barbara Miles, Rosemary Miles and Rosendo Miles. Based upon detailed cost estimates on file in Right of Way Acquisition Section, the total cost for the construction of the houses shall be \$355,000.00 of which \$249,500.00 will be the direct cost contribution by the State resulting from the cost to cure noise mitigation since the present location of the Miles' housing will be adversely impacted by the construction and the completed highway project. The construction shall include septic systems, and water, electric and telephone lines and connections as well as other necessary expenses. The houses will be constructed within eight months after home sites have been selected and approved by the SRPMIC Development Department. The design will be within the sole discretion of the families for whom the houses are being constructed, subject only to the limitation in cost contribution by the State. Any amount over the \$249,500.00 shall be covered by the tribe and is estimated to be \$105,500.00, which includes project management costs and architectural design costs for the Miles' houses. The State will pay \$105,500.00 to SRPMIC for the temporary construction staging area as referenced in II.1.c. below.

b. Be responsible for making application for a grant of easement at the location specified on Exhibit A, to build a frontage road bus stop.

c. Be responsible for making application for temporary construction easements (TCE), and construction staging area at the location specified on Exhibit A and B, attached hereto and made a part hereof, whose value is estimated to be \$105,500.00 based upon appraisals presently on file in the right of way acquisition section.

2. The SRPMIC will:

a. Provide the State with TCEs' on Community land for the construction of SR 87 without any charge beyond the agreement of the State expressed in Section II 1.a. hereof. (See Exhibit B)

b. Consent to the grant of an easement at the location specified on Exhibit A, for the construction of a staging area and a frontage road bus stop.

c. Be responsible for any amount over the \$249,500.00 for construction of relocation houses on the Miles' property, estimated to be \$105,500.00, which includes project management costs and architectural design costs.

d. Grant the State the authority to deposit the \$105,500.00 into the Miles' escrow account, to be used for construction of the houses described in Section II, paragraph 1.a. above.

3. The Landowners of Allotment No. SR 772 will:

a. Consent to and assist in the acquisition process of the grant of easement at the location specified on Exhibit A, for the construction of a frontage road bus stop. Said easement has been appraised at \$3,200.00.

b. By accepting the State's compensation, the landowners release the State from any and all damages which might be caused by or resulting from the construction of the highway in the manner proposed.

4. The Relocatees of Allotment SR 772 will:

Accept the provisions for housing as set out in Section II, paragraph 1.a. above as and for total compensation for their impacted property rights.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project and payments; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518 and for contracts relating to reservation lands in 25 U.S.C. 416a(c).

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix, AZ 85007

U.S. Department of Interior
Bureau of Indian Affairs
Salt River Agency
10000 E. McDowell Road
Scottsdale, AZ 85256

Salt River Pima-Maricopa Indian Community
For the Community, the Allottees of SR 772
and the Relocatees of Allotment No. SR 772
Tribal Administration
Route 1 Box 216
10155 E. Osborn Road
Scottsdale, AZ 85256

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under applicable laws to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY**

By Ivan Makil
IVAN MAKIL
President

STATE OF ARIZONA
Department of Transportation

By Peter L. Eno *per*
PETER L. ENO
Contract Administrator

LANDOWNERS OF ALLOTMENT NO. SR 772

Glenna Benita Miles
Glenna Benita Miles - SRid#8419

Marietta Miles NE
Marietta Miles

Avery Anthony Miles - SRid#2308
Deceased

Eldon Miles - (Probate-pend.) SRid#9032

Barbara Miles
Barbara Miles - SRid#8178

June 25, 1996
(date)
12-12-1995
(date)
12-11-95
(date)
(date)
December 4, 1995
(date)

RELOCATEES OF ALLOTMENT NO. SR 772

Barbara Miles
Barbara Miles - SRid#8178

Rosemary Miles
Rosemary Miles - SRid#20601

Rosendo Miles
Rosendo Miles - SRid#20598

December 4, 1995
(date)
December 4, 1995
(date)
December 4, 1995
(date)

CONCUR:

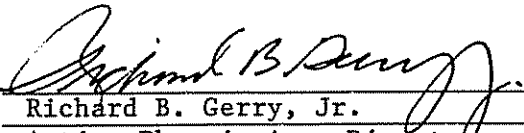
BUREAU OF INDIAN AFFAIRS

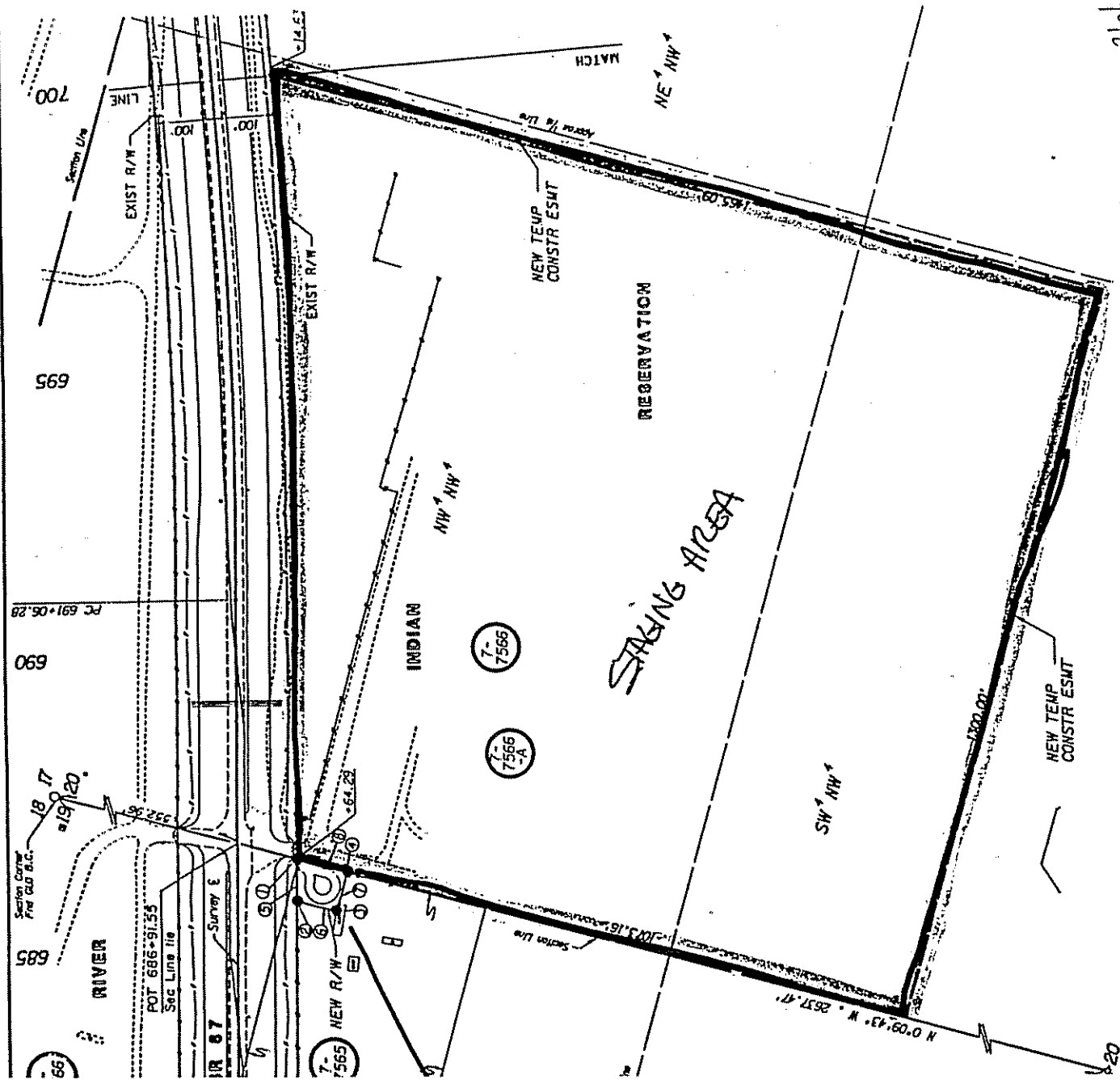
By Veronica Murdock
VERONICA MURDOCK
Superintendent, Salt River Agency

6/5/96
(date)

CERTIFICATE OF APPROVAL

The Secretary of the Department of the Interior (the "Secretary") is charged by 25 U.S.C. §81 with approving certain contracts between tribes and any person. The undersigned finds that the Intergovernmental Agreement complies with and satisfies the requirements of the relevant federal laws and regulations. Accordingly, pursuant to the authority delegated by 230 DM 1 and 10 BIAM 3, the undersigned hereby approves the Agreement, pursuant to 25 U.S.C. §81, on behalf of the Secretary. The Secretary's approval shall not make the Secretary a party, nor shall it make the United States subject to any potential liability thereunder.

By: 
Name: Richard B. Gerry, Jr.
Title: Acting Phoenix Area Director
Date: June 5, 1996



REVISIONS			DRAWING NO. 10-1-101		
C.O. NO.	DATE	BY	DESCRIPTION	DRAWN	CHECKED
8991	5/23/95	RPA	ADD NEW ICE PLOT 7-1565-A & ADD NEW	001 01-04-14	001 01-04-14
8991	5/23/95	RPA	R/W PLOT 7-1565.	001 01-04-14	001 01-04-14
			SHEET 14 OF 20		
			SR 87 MCCOY ROAD - SHERA BOULEVARD		

DESCRIPTION FOR RIGHT OF WAY

*Bus
stop*

A portion of Allotment 772 being a part of the Northeast quarter of the Northeast quarter of Section 19, Township 2 North, Range 6 East, Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at a point on the existing right of way line of State Route 87 (MESA - PAYSON HIGHWAY) from which the Northeast corner said section, monumented by a General Land Office brass cap, bears North $0^{\circ}09'43''$ West 552.96 feet;

thence South $74^{\circ}35'33''$ West along said right of way line 72.55 feet;

thence South $0^{\circ}09'43''$ East 70.06 feet;

thence North $89^{\circ}50'17''$ East 70.00 feet to the East line of said Section 19;

thence North $0^{\circ}09'43''$ West along said East line 89.14 feet to the POINT OF BEGINNING.

EXHIBIT "A"

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T.C.E. LEGEND

PROJECT: STP-053-1(29)/87 MA 177 H272901R
HIGHWAY: Mesa - Payson Highway
SECTION: Mc Dowell Road - Shea Boulevard
PARCEL: 7-7566 (SRPMIC)

REF	T.C.E. LOCATION	CONST. PLANS	T.C.E. AREA	NEED FOR T.C.E.	AMOUNT
1.	RT406+50±	94	0.07 ac ±	Construct S. entry feature, SE corner McDowell & County Club	No Charge
2.	LT570+00±	114	0.03ac ±	Turnout reconstruction	No Charge
3.	RT570+00±	114	0.11ac ±	Turnout reconstruction	No Charge
4.	RT635+00±	124	0.4ac ±	Slope construction at Gilbert Rd.	No Charge
5.	RT730+00±	136	1.0ac ±	Turnout reconstruction	No Charge
6.	RT804-812	146,148	0.5ac ±	Slope rounding	No Charge
7.	LT809-813	146,148	0.3ac ±	Slope rounding	No Charge
8.	LT835-840	150	0.45ac ±	Slope rounding	No Charge
9.	LT842-847	152	0.25ac ±	Slope rounding	No Charge
10.	LT949-958	166	0.4ac ±	Slope rounding	No Charge
11.	RT695-700± (Beeline Dragway)	132	37.56 ac ±	Construction Staging Area	\$105,500.
12.	RT442-452±	98	1.78 ac ±	Ingress & Egress for Union Rock Business	No Charge

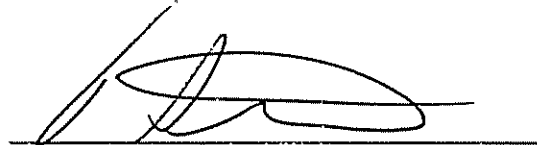
DEE:mg
 STW462

EXHIBIT "B"

RESOLUTION

BE IT RESOLVED on this 8th day of June 1995, that I, the undersigned, LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interest of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the Salt River Pima-Maricopa Indian Community and the Land Owners and Relocates of Allotment No. SR 772 for the purpose of defining responsibilities for the cost to cure noise mitigation to the Miles property in the Salt River Pima-Maricopa Indian Community.

THEREFORE, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in black ink, appearing to read 'Larry S. Bonine', is written over a horizontal line.

LARRY S. BONINE, Director
Arizona Department of
Transportation

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY**

Route 1, Box 216
Scottsdale, Arizona 85256

ORDINANCE NUMBER: SRO-190-95

To exercise the authority of the Salt River Pima-Maricopa Indian Community Council pursuant to Section 17-41 et seq. of the Code of Ordinances of the Salt River Pima-Maricopa Indian Community to authorize roadway construction.

BE IT ENACTED THAT:

1. **Roadway Construction Authorization:** Roadway construction on the following roadway is hereby authorized:

State Route 87 (Beeline Highway) - McDowell Road to Shea Boulevard, approximately 10.9 miles in length. Said construction involves a paved section 76 feet in width, with median and related driveways, intersections, drainage structures, and bridges at the Arizona Canal and Central Arizona Project Canal.

2. **Location Map:** A map of the roadway is filed in the office of the Secretary of the Salt River Pima-Maricopa Indian Community as Mesa-Payson Hwy (SR 87), STP-053-1(29), 087 MA 177, Sheets No. 94 to 171 of 378.

3. **Effective Date:** This ordinance will be effective on the date that there is filed in the office of the Secretary of the Salt River Pima-Maricopa Indian Community a certificate executed by the Arizona State Engineer and the Director of the Community Development Department certifying that the following conditions have been fully performed:

a) **Archeology:** That all of the requirements of the federal and Community's Antiquities Act and the National Historic Preservation Act to be completed prior to the commencement of construction of the project have been completed and all of the antiquities, artifacts and remains found within the right-of-way and in the excavated sites have been turned over to the Community for disposition and curation as the Community determines.

b) **Materials and SRPMIC Employment:** Arizona Department of Transportation ("ADOT") has specified that such aggregate, rip rap, sand and gravel, portland cement, portland cement concrete, portland cement slurry, portland cement redi-mix grout and asphaltic concrete to be used in the construction of the State Route 87 improvements as are produced or manufactured by Salt River Sand & Rock Company, Phoenix Cement Company or other business enterprises owned by or divisions of the Community (collectively "SRPMIC companies") shall be purchased from SRPMIC companies according to specifications and at a market price. As to such of the products listed above that the SRPMIC companies agree to supply, ADOT has specified that all such materials shall be

purchased from SRPMIC companies according to specifications and at a market price. ADOT has specified that members of SRPMIC will have preference in hiring, training, and promotion on all jobs relating to the construction of the improvements on the subject property.

c) **Aesthetics:** ADOT has designed and will construct and install at no cost to SRPMIC two (2) entry features at locations determined by SRPMIC in a manner consistent with the Aesthetic Guidelines required under the Grant of Easement for Right-of-Way for ADOT Project H82901R Northeast Outer Loop, and similar in regard to the entry feature described in those Aesthetic Guidelines. The entry features will be located on the Salt River Pima-Maricopa Indian Community near the intersection of McDowell Road/State Route 87, and Shea Boulevard/State Route 87. ADOT has designed the entire project in conformity with the aesthetic requirements of the Community.

d) **Plans and Permits:** ADOT has provided reasonable opportunity for plan review and comment by the Community during plans development for the Route 87 improvements. A Community construction permit has been issued conditioned on the enactment of this ordinance authorizing the construction of the road hereby authorized and further conditioned on (i) the construction faithfully abiding the approved plans and specifications, and (ii) all archeology work done during construction faithfully following the requirements of pre-construction activity set out in subsection (a) above.

e) **Relocation Benefits:** ADOT has entered into a contract with the necessary landowners of Allotment No. 772 and the SRPMIC to provide relocation housing for the families of Barbara Miles, Rosemary Miles and Rosendo Miles including single family houses, septic systems, water, electric and telephone lines.

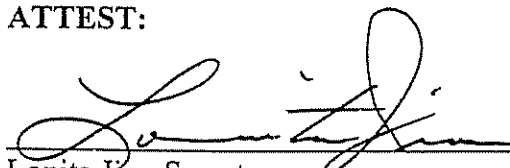
C_E_R_T_I_F_I_C_A_T_I_O_N

Pursuant to authority contained in Article VII, Section 1 (c) (d) of the Constitution of the Salt River Pima-Maricopa Indian Community ratified by the Tribe, February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, the foregoing ordinance was adopted this 22nd of February, 1995, in a duly called meeting held by the Community Council in Salt River, Arizona at which a quorum of 9 members were present by a vote of 9 for; 0 opposed.

SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY COUNCIL


Ivan Makil, President

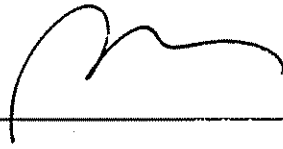
ATTEST:


Lonita Jim, Secretary

APPROVAL OF
THE SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY TRIBAL ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION and the SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, and declare this agreement to be in proper form and within the powers and authority granted to the Tribe under the laws of the Tribe.

DATED this 20 day of September, 1995



Tribal Attorney



TRN Main: 542-1680
Direct: 542-8837
Fax: 542-3646

STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT **DETERMINATION**

A.G. Contract No. KR95-1302-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 27th day of June, 1996.

GRANT WOODS
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
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